

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DOMINICK WILLIAMS HAYNES,

Petitioner,) Civil Action No. 2: 13-cv-1131
v.)
COMMONWEALTH OF PA., et al) Chief United States Judge
Respondents.) Joy Flowers Conti
)
)
)

MEMORANDUM ORDER

On August 5, 2013, the above captioned case was initiated by the filing of a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

The magistrate judge filed a Report and Recommendation on November 12, 2013 (ECF No. 10) recommending that the motion to dismiss the Petition for Writ of Habeas Corpus be granted without prejudice for failure to exhaust state court remedies and that a certificate of appealability be denied. Petitioner was served with the Report and Recommendation at his listed address and was advised that he had until November 29, 2013 to file written objections to the Report and Recommendation. On November 21, 2013, the Court was notified that Plaintiff had been transferred to a different facility (ECF No. 11). In an abundance of caution, the Report and Recommendation was mailed to Petitioner at his new address, and Petitioner was advised that he had until December

20, 2013 to file written objections to the Report and Recommendation. To date, no objections have been filed nor has a request for an extension of time in which to file objections been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 17th day of January, 2014:

IT IS HEREBY ORDERED that the Motion to Dismiss the Petition of Dominick Williams Haynes for a writ of habeas corpus is **GRANTED** (ECF No. 7) and the habeas petition is dismissed, without prejudice, for failure to exhaust state court remedies.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED** as reasonable jurists could not conclude that a basis for appeal exists.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 10) is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:

/s/ Joy Flowers Conti
Joy Flowers Conti
Chief, United States District Judge

cc: DOMINICK WILLIAMS HAYNES
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